

AMENDED IN ASSEMBLY AUGUST 7, 2000

AMENDED IN ASSEMBLY JUNE 20, 2000

AMENDED IN SENATE MAY 8, 2000

SENATE BILL

No. 1927

Introduced by Senator Haynes

February 24, 2000

An act to amend Sections 6405 and 6408 of the Business and Professions Code, relating to legal document assistants—~~and unlawful detainer assistants.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1927, as amended, Haynes. Legal document assistants.

Existing law generally regulates, until January 1, 2003, legal document assistants, as defined, and, among other things, provides for the registration by the county clerk of those persons. Existing law requires an applicant for a certificate of registration to provide a bond in the amount of \$25,000.

This bill would reduce the amount of the bond that a legal document assistant who limits his or her practice solely to assisting either party in a small claims court action in the County of Riverside is required to provide for a certificate of registration from \$25,000 to \$5,000. ~~This bill would require an application for a certificate of registration under these circumstances to be accompanied by a statement signed under penalty of perjury, thereby creating a new crime.~~ This bill would enact other related provisions.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated~~

~~by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

This bill would incorporate additional changes in Section 6405 of the Business and Professions Code proposed by AB 2810, to become operative only if those bills are enacted and become operative, as specified, and this bill is enacted last.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ no.
State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6405 of the Business and
2 Professions Code is amended to read:

3 6405. (a) (1) Except as provided in paragraph (3),
4 application for a certificate of registration by an
5 individual shall be accompanied by a bond of twenty-five
6 thousand dollars (\$25,000) executed by a corporate surety
7 qualified to do business in this state and conditioned upon
8 compliance with this chapter. The total aggregate
9 liability on the bond shall be limited to twenty-five
10 thousand dollars (\$25,000).

11 (2) An application for a certificate of registration by a
12 partnership or corporation shall be accompanied by a
13 bond of twenty-five thousand dollars (\$25,000) executed
14 by a corporate surety qualified to do business in this state
15 and conditioned upon compliance with this chapter. The
16 total aggregate liability on the bond shall be limited to
17 twenty-five thousand dollars (\$25,000). An application for
18 a certificate of registration by a person employed by a
19 partnership or corporation shall be accompanied by a
20 bond of twenty-five thousand dollars (\$25,000) only when
21 the partnership or corporation has not posted a bond of
22 twenty-five thousand dollars (\$25,000) as required by this
23 subdivision.

24 (3) A legal document assistant who files an application
25 for a certificate of registration in the County of Riverside,
26 who limits his or her practice to that county, and who
27 limits his or her practice solely to assisting either party in

1 a small claims court action, may, in lieu of providing a
2 bond of twenty-five thousand dollars (\$25,000), provide
3 a bond of five thousand dollars (\$5,000) executed by a
4 corporate surety qualified to do business in this state and
5 conditioned upon compliance with this chapter. The total
6 aggregate liability on the bond shall be limited to five
7 thousand dollars (\$5,000). An application for a certificate
8 of registration accompanied by a bond of five thousand
9 dollars (\$5,000) as authorized by this paragraph shall
10 ~~include a declaration signed under penalty of perjury by~~
11 ~~the legal document assistant that he or she indicate that~~
12 *the legal document assistant* limits his or her practice
13 solely to assisting parties in small claims court actions.

14 (4) The bond may be terminated pursuant to Section
15 995.440 of, and Article 13 (commencing with Section
16 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of
17 Civil Procedure.

18 (b) The county clerk shall, upon filing of the bond,
19 deliver the bond forthwith to the county recorder for
20 recording. The recording fee specified in Section 27361 of
21 the Government Code shall be paid by the registrant. The
22 fee may be paid to the county clerk, who shall transmit it
23 to the recorder.

24 (c) The fee for filing, canceling, revoking, or
25 withdrawing the bond is seven dollars (\$7).

26 (d) The county recorder shall record the bond and any
27 notice of cancellation, revocation, or withdrawal of the
28 bond, and shall thereafter mail the instrument, unless
29 specified to the contrary, to the person named in the
30 instrument and, if no person is named, to the party
31 leaving it for recording. The recording fee specified in
32 Section 27361 of the Government Code for notice of
33 cancellation, revocation, or withdrawal of the bond shall
34 be paid to the county clerk, who shall transmit it to the
35 county recorder.

36 (e) In lieu of the bond required by subdivision (a), a
37 registrant may deposit twenty-five thousand dollars
38 (\$25,000) or five thousand dollars (\$5,000), as applicable,
39 in cash with the county clerk.

1 (f) If the certificate is revoked, the bond or cash
2 deposit shall be returned to the bonding party or
3 depositor subject to subdivision (g) and the right of a
4 person to recover against the bond or cash deposit under
5 Section 6412.

6 (g) The county clerk may retain a cash deposit until
7 the expiration of three years from the date the registrant
8 has ceased to do business, or three years from the
9 expiration or revocation date of the registration, in order
10 to ensure there are no outstanding claims against the
11 deposit. A judge of a municipal or superior court may
12 order the return of the deposit prior to the expiration of
13 three years upon evidence satisfactory to the judge that
14 there are no outstanding claims against the deposit.

15 *SEC. 1.5. Section 6405 of the Business and Professions*
16 *Code is amended to read:*

17 6405. (a) (1) ~~An~~ *Except as provided in paragraph*
18 *(3), application for a certificate of registration by an*
19 *individual shall be accompanied by a bond of twenty-five*
20 *thousand dollars (\$25,000) executed by a corporate surety*
21 *qualified to do business in this state and conditioned upon*
22 *compliance with this chapter. The total aggregate*
23 *liability on the bond shall be limited to twenty-five*
24 *thousand dollars (\$25,000). An application for secondary*
25 *registration shall meet all of the requirements of this*
26 *subdivision, except that in place of posting another*
27 *original bond or cash deposit, the applicant shall include*
28 *a certified copy of the bond or cash deposit posted in the*
29 *county in which the applicant filed the primary*
30 *registration.*

31 (2) An application for a certificate of registration by a
32 partnership or corporation shall be accompanied by a
33 bond of twenty-five thousand dollars (\$25,000) executed
34 by a corporate surety qualified to do business in this state
35 and conditioned upon compliance with this chapter. The
36 total aggregate liability on the bond shall be limited to
37 twenty-five thousand dollars (\$25,000). An application for
38 a certificate of registration by a person employed by a
39 partnership or corporation shall be accompanied by a
40 bond of twenty-five thousand dollars (\$25,000) only ~~when~~

1 *if the partnership or corporation has not posted a bond of*
2 *twenty-five thousand dollars (\$25,000) as required by this*
3 *subdivision. An application for secondary registration*
4 *shall meet all of the requirements of this subdivision,*
5 *except that in place of posting another original bond or*
6 *cash deposit, the applicant shall include a certified copy*
7 *of the bond or cash deposit posted in the county in which*
8 *the applicant filed the primary registration.*

9 (3) *A legal document assistant who files an application*
10 *for a certificate of registration in the County of Riverside,*
11 *who limits his or her practice to that county, and who*
12 *limits his or her practice solely to assisting either party in*
13 *a small claims court action, may, in lieu of providing a*
14 *bond of twenty-five thousand dollars (\$25,000), provide*
15 *a bond of five thousand dollars (\$5,000) executed by a*
16 *corporate surety qualified to do business in this state and*
17 *conditioned upon compliance with this chapter. The total*
18 *aggregate liability on the bond shall be limited to five*
19 *thousand dollars (\$5,000). An application for a certificate*
20 *of registration accompanied by a bond of five thousand*
21 *dollars (\$5,000) as authorized by this paragraph shall*
22 *indicate that the legal document assistant limits his or her*
23 *practice solely to assisting parties in small claims actions.*

24 (4) *The bond may be terminated pursuant to Section*
25 *995.440 of, and Article 13 (commencing with Section*
26 *996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of*
27 *Civil Procedure.*

28 (b) *The county clerk shall, upon filing of the bond,*
29 *deliver the bond forthwith to the county recorder for*
30 *recording. The recording fee specified in Section 27361 of*
31 *the Government Code shall be paid by the registrant. The*
32 *fee may be paid to the county clerk, who shall transmit it*
33 *to the recorder.*

34 (c) *The fee for filing, canceling, revoking, or*
35 *withdrawing the bond is seven dollars (\$7).*

36 (d) *The county recorder shall record the bond and any*
37 *notice of cancellation, revocation, or withdrawal of the*
38 *bond, and shall thereafter mail the instrument, unless*
39 *specified to the contrary, to the person named in the*
40 *instrument and, if no person is named, to the party*

1 leaving it for recording. The recording fee specified in
2 Section 27361 of the Government Code for notice of
3 cancellation, revocation, or withdrawal of the bond shall
4 be paid to the county clerk, who shall transmit it to the
5 county recorder.

6 (e) In lieu of the bond required by subdivision (a), a
7 registrant may deposit twenty-five thousand dollars
8 (\$25,000) *or five thousand dollars (\$5,000), as applicable,*
9 in cash with the county clerk.

10 (f) If the certificate is revoked, the bond or cash
11 deposit shall be returned to the bonding party or
12 depositor subject to subdivision (g) and the right of a
13 person to recover against the bond or cash deposit under
14 Section 6412.

15 (g) The county clerk may retain a cash deposit until
16 the expiration of three years from the date the registrant
17 has ceased to do business, or three years from the
18 expiration or revocation date of the registration, in order
19 to ensure there are no outstanding claims against the
20 deposit. A judge of a municipal or superior court may
21 order the return of the deposit prior to the expiration of
22 three years upon evidence satisfactory to the judge that
23 there are no outstanding claims against the deposit.

24 (h) *The bond required by this section shall be in favor*
25 *of the State of California for the benefit of any person who*
26 *is damaged as a result of the violation of this chapter or*
27 *by the fraud, dishonesty, or incompetency of an*
28 *individual, partnership, or corporation registered under*
29 *this chapter. The bond required by this section shall also*
30 *indicate the name of the county in which it will be filed.*

31 SEC. 2. Section 6408 of the Business and Professions
32 Code, as amended by Section 15 of Chapter 1079 of the
33 Statutes of 1998, is amended to read:

34 6408. (a) The registrant's name, business address,
35 telephone number, registration number, and county of
36 registration shall appear on any solicitation or
37 advertisement, and on any appropriate papers or
38 documents prepared or used by the registrant, including,
39 but not limited to, contracts, letterhead, business cards,

1 correspondence, documents, forms, claims, petitions,
2 checks, receipts, money orders, and pleadings.

3 (b) In addition to the requirements of subdivision (a),
4 all registrants who post a reduced bond pursuant to
5 paragraph (3) of subdivision (a) of Section 6405 shall
6 include on any solicitation or advertisement, and on the
7 registrant's work product, including, but not limited to,
8 letterhead, correspondence, documents, forms, claims,
9 petitions, checks, receipts, money orders, pleadings, and
10 other papers, a statement that the registrant is only
11 authorized to provide services in small claims court
12 matters.

13 (c) This section shall remain in effect only until
14 January 1, 2003, or the date the director suspends the
15 requirements of this chapter applicable to legal
16 document assistants pursuant to Section 6416, whichever
17 first occurs, and as of that date is repealed, unless a later
18 enacted statute, that is enacted before that date, deletes
19 or extends that date.

20 ~~SEC. 3. No reimbursement is required by this act~~
21 ~~pursuant to Section 6 of Article XIII B of the California~~
22 ~~Constitution because the only costs that may be incurred~~
23 ~~by a local agency or school district will be incurred~~
24 ~~because this act creates a new crime or infraction,~~
25 ~~eliminates a crime or infraction, or changes the penalty~~
26 ~~for a crime or infraction, within the meaning of Section~~
27 ~~17556 of the Government Code, or changes the definition~~
28 ~~of a crime within the meaning of Section 6 of Article~~
29 ~~XIII B of the California Constitution.~~

30 *SEC. 3. Section 1.5 of this bill incorporates*
31 *amendments to Section 6405 of the Business and*
32 *Professions Code proposed by both this bill and AB 2810.*
33 *It shall only become operative if (1) both bills are enacted*
34 *and become effective on or before January 1, 2001, (2)*
35 *each bill amends Section 6405 of the Business and*
36 *Professions Code, and (3) this bill is enacted after AB*
37 *2810, in which case Section 6405 of the Business and*
38 *Professions Code, as amended by AB 2810, shall remain*
39 *operative only until the operative date of this bill, at*

- 1 *which time Section 1.5 of this bill shall become operative,*
- 2 *and Section 1 of this bill shall not become operative.*

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